

JAN 10 2007

Serial No: 10/074,789

WIBL-P02-518

REMARKS

Claims 1-7, 9-14, 65, 66, 72, 73, and 75 constitute the pending claims in the present application. Applicants cancel, without prejudice, claims 74 and 76.

Claim 9 is amended to delete recitation of "providing an output indicating the weighted vote for the known class". Claim 9 is also amended to recite "providing a sample". Support for Applicants' amendment can be found, for example, in originally filed claim 9. Specifically, although claim 9 does not explicitly recite a step of "providing a sample", claim 9 provides implicit support for such a claim limitation. Further implicit support can be found, for example, in paragraph [0012] of the published specification. Additionally, Applicants direct the Examiner's attention to, for example, paragraphs [0021] and [0042]. Although these passages are not directed solely to a method of determining a weighted vote, the methods described in these passages include a step where a method of determining a weighted vote is performed. Accordingly, these passages, which provide explicit support for recitation of "providing a sample", are relevant in evaluating whether the specification provides support for Applicants' amendment to claim 9.

Additionally, Applicants respectfully submit that the entire application clearly contemplates embodiments in which providing a sample is the starting point for further analysis. Examples 1 and 2 describe methods for which the starting part is the provision of samples.

Taken as a whole, passages of the specification directed solely to determining a weighted vote, as well as passages of the specification directed to classification methods that include a step of determining a weighted vote, support Applicants' contention that the specification provides ample explicit and implicit support for Applicants' amendment to claim 9.

Applicants respectfully request entry of this after-final response. Applicants' amendments to the claims do not necessitate an additional search and simplify issues for appeal. Specifically, Applicants' amendment to claim 9 to delete recitation of "providing an output indicating the weighted vote for the known class" resolves the outstanding New Matter rejection. Furthermore, Applicants' amendment to claim 9 to recite "providing a sample" addresses the previous rejection under 35 U.S.C. 101.

Applicants respectfully request reconsideration in view of the following remarks. Issues raised by the Examiner will be addressed below in the order they appear in the Office Action.

Serial No: 10/074,789

WIBL-P02-518

Interview Summary

Applicants thank the Examiner for courtesies extended during a telephonic interview conducted on January 9, 2007. During the interview, the outstanding rejection of claim 9 (and claims dependent thereon) under 35 U.S.C. 112, first paragraph, and the previous rejection of claim 9 under 35 U.S.C. 101 were discussed.

*35 U.S.C. 112, first paragraph**New Matter Rejection*

Claims 9-14, 74, and 76 are rejected under 35 U.S.C. 112, first paragraph, for allegedly failing to comply with the written description requirement. Applicants traverse this rejection and contend that the rejection is moot in light of the amended claims.

The Office Action alleges that the specification fails to provide adequate support for "[a] method comprising providing an output indicating a weighted vote for a known class." (page 2 of the prior Office Action). Applicants respectfully disagree. Nevertheless, to expedite prosecution, Applicants have deleted recitation of the allegedly new matter from claim 9, thereby obviating the rejection. Furthermore, Applicants have cancelled claims 74 and 76. Applicants' cancellation of and amendment to the claims are not in acquiescence to the rejection. Applicants reserve the right to prosecute claims of similar or differing scope. In view of Applicants' amendments, reconsideration and withdrawal of the rejection are requested.

Applicants note that recitation in claim 9 of an output step was originally proposed to address a rejection under 35 U.S.C. 101. To prevent reinstatement of the rejection under 35 U.S.C. 101, Applicants have further amended claim 9 to recite "providing a sample". Applicants' amendment to claim 9 is consistent with the utility guidelines and, as such, reinstatement of the rejection under 35 U.S.C. 101 is not required. Accordingly, Applicants respectfully submit that claim 9 and claims dependent thereon, as amended by the instant response, are in condition for allowance.

Allowable Subject Matter

Applicants note with appreciation that claims 1-7, 65, 66, 72, 73, and 75 are allowed.

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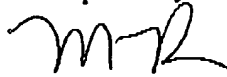
WIBL-P02-518

CONCLUSION

In view of the foregoing amendments and remarks, Applicants submit that the pending claims are in condition for allowance. Early and favorable reconsideration is respectfully solicited. The Examiner may address any questions raised by this submission to the undersigned at 617-951-7000.

Please charge any deficiency or credit any overpayment in the fees that may be due in this matter to **Deposit Account No. 18-1945**, from which the undersigned is authorized to draw, under **Order No. WIBL-P02-518**.

Respectfully Submitted,

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